THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.7919 of 1998

Dated: 09-08-2005

Between:

A. Sambaiah. ..Petitioner.

And

A.P.S.E.Board, Hyderabad and another.

..Respondents.

THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.7919 of 1998

ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings in Memo No.DP/DIR/DM(IR)/P.O.IV/471/97, dated 05-12-1997 issued by the respondents as arbitrary and illegal, and consequently to direct the respondents to appoint the petitioner as Junior Lineman/Helper based on the interview held in the month of October, 1997, irrespective of the qualifications prescribed in

B.P.Ms.No.1048, dated 23-09-1989.

The petitioner state that he studied up to S.S.C. and that since 1989 he has been working as Village Electricity Worker at Vannacherla, Mahaboobnagar District.

It is stated that the respondent-Board had introduced a Special Employment Training Programme in 1987 in order to improve the service to their customers where their regular staff are not posted and also to provide employment to the unemployed youth. As per the said programme, Gram Panchayat, which is having a minimum of 100 services is permitted to have one Village Electricity Worker. Accordingly interviews were held and the petitioner was selected for the post of Village Electricity Worker and was sent for a training programme for a period of three months through Memos dated 09-08-1989. While so, the respondent-Board issued B.P.Ms.No.36 dated 18-05-1997 in order to consider the cases of Village Electricity Workers against 50% existing vacancies and for the said purpose, the petitioner was interviewed in the month of October, 1997. However, the respondent-Board issued the impugned Memo dated 05-12-1997 directing their officers to take into consideration the age limit as on the date of initial appointment excluding the training period.

The grievance of the petitioner is that he is eligible to be considered as Helper/Junior Lineman, as per the guidelines laid down in B.P.Ms.No.36, dated 18-05-1997, if the age limit is taken into consideration as on the date on which he was appointed and sent for training.

I have given my earnest consideration to the submissions made by the learned counsel on either side and perused the material available on record.

The impugned Memo dated 05-12-1997 issued by the Member Secretary of the respondent-Board reads as under:

> *"The Chief Engineer, Eleyl./Nellore Zone in the reference cited has requested to clarify whether the initial training period of 3 months given to Village Electricity Workers is to be taken for*

the purpose of Date of first entry, since there are some candidates who become overaged if the initial training period of three months is excluded.

After careful examination, , it is hereby clarified that age may be taken into account as on the date of first engagement as Village Electricity Workers in Gram Panchayat but not as on the date on which they join for undergoing initial training."

A bare reading of the above would indicate that the calculation of age limit for the purpose of consideration of the case of the petitioner as per B.P.Ms.No.36 dated 18-05-1997, has to be taken as on the date when he was engaged as Village Electricity Workers but not as on the date on which he was appointed and sent for training. On the face of it, the said Memo dated 05-12-1997 is irrational, unreasonable and atrocious. It is the general principle of service law that whenever a person is selected and sent for training, he should be treated as if he has joined the services of the organization. In the present case, the petitioner claims that if the age limit as on the date on which he was appointed and sent for training is taken into consideration, he would be eligible, otherwise he would be disqualified. In the circumstances, I am of the opinion that the impugned memo is arbitrary and the same is liable to be set aside.

Accordingly, the Memo No. DP/DIR/DM(IR)/P.O.IV/471/97, dated 05-12-1997 is hereby set aside and the writ petition is allowed directing the respondents to consider the case of the petitioner, as per B.P.Ms.No.36, dated 18-05-1997, taking into consideration the age limit and the educational qualifications as on the date when he was appointed and sent for training, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order and communicate the same to the petitioner. No costs.

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(C.V. RAMULU, J)

09-08-2005

ghn